

2005 Legal Update

*2 Hours - Telecourse DVD (New)
January 2005*

**DVDs will be
mailed first
week of Feb.**

This annual Telecourse program provides a comprehensive overview of new legislation and case law decisions impacting California law enforcement in 2005.

The first half of the program features legislative updates for the following:

- General Law Enforcement Laws (sex offenses, elder abuse, domestic violence, peace officers, miscellaneous).
- Firearms Laws (.50-caliber BMG assault weapons, gun release process, protocols for restricted firearms, imitation firearms, carrying concealed weapons by peace officers)
- Traffic Laws (child safety, motorcycles, commercial vehicles, license plates, vehicle storage, headlights, fines and penalties, cell phones, hybrid vehicles)

The second half of the program presents case law review, where legal experts present practical, street-oriented discussion to explain updates in laws related to interrogation, search and seizure, and more.

The DVD program offers two viewing options:

1. Play Telecourse in its entirety (2 hours)
2. Select among nine Telecourse segments:
 - Segment 1 - Legislative Changes (18 min.)
 - Segment 2 - Legislative Changes (16 min.)
 - Segment 3 - Legislative Changes (15 min.)
 - Segment 4 - Case Law Decisions (13 min.)
 - Segment 5 - Case Law Decisions: Interrogation Law (16 min.)
 - Segment 6 - Case Law Decisions: Search & Seizure Law (15 min.)
 - Segment 7 - Case Law Decisions: Search & Seizure Law (12 min.)
 - Segment 8 - Case Law Decisions: Search & Seizure Law (10 min.)
 - Segment 9 - Case Law Decisions: Search & Seizure Law (12 min.)

A companion Telecourse reference guide is available online at the POST website: www.post.ca.gov/training/cptn/ref_guides.asp

POST Course Control Number: xxxx-30001-xx032*
Telecourse Module Number: 05--01
Reference Guide Yes (online; see note at right)

* Specific to DVD only. The first four digits of the Course Control Number (xxxx) is the preassigned Telecourse Presenter Number specific to your agency; the tenth and eleventh digits (xx) are the fiscal year in which your agency presents this program. See website for detailed instructions.



40 Minutes - Quarterly Edition DVD
October 2004

Knock/Notice: Exigent Circumstances

with Daniel McNERney, Superior Court Judge, State of California

Police may dispense with Knock/Notice if they have reasonable suspicion that an occupant may be armed and pose a danger to officer safety. *Cases/statutes cited: Richards v. Wisconsin* (1997) 520 U.S. 385; *U.S. v. Banks* (2003) 124 S. Ct. 521; *U.S. v. Marts* (1993) 986 F2d 1216; *U.S. v. Bynum* (2004) DAR 3790. (8:41)

"I Forgot" No Defense for 290 Registrant

with Jeff Rubin, Alameda County District Attorney's Office

Although it must be shown that a person required to register as a sex offender under P.C. §290 has actual knowledge of his duty to register in order to prove a violation of the statute, the fact that the offender "forgot" about his duty to register is not a defense. *Case/statutes cited: People v. Barker* (2004) 120 Cal.App.4th 507; P.C. §290. (5:17)

Public Safety Officer's Procedural Bill of Rights

with William Bedsworth, Justice of the Court of Appeal, State of California

In 1976, the California Legislature passed the Public Safety Officer's Procedural Bill of Rights. Justice Bedsworth analyzes the recent case of *Seligsohn v. Day* and explains some of the provisions of that act and how they protect peace officers. *Cases/statutes cited: Seligsohn v. Day* (04 Daily Journal DAR 9795)(8/11/04) (7:50)

Student's Expectation of Privacy in Gym Locker

with Jeff Rubin, Alameda County District Attorney's Office

Officers do not violate the Fourth Amendment by requiring a juvenile to remove items from a gym locker that was only used temporarily to store items during gym class; and a juvenile's admission that he had a knife in his backpack provides reasonable suspicion to search the backpack. *Cases/statutes cited: in re Cody S.* (2004) 121 Cal.App.4th 86. (5:17)

Detention: Failure to Provide Name

with Daniel McNERney, Superior Court Judge, State of California

A peace officer may ask a suspect for identification during a lawful detention. The Supreme Court has ruled that a detainee's failure to give his name **may** subject him to criminal prosecution for delaying or obstructing a peace officer. *Cases/statutes cited: U.S. v. Hensley* (1985) 469 U.S. 221; *Hiibel v. Nevada* (2004) DAR 7364; *People v. Quiroga* (1993) 16 CA4 961. (10:04)

Section 626.10 Permits Box Cutter on Campus

with Jeff Rubin, Alameda County District Attorney's Office

A juvenile may possess a box cutter on campus without violating P.C. §626.10 because a box cutter does not constitute a razor with an unguarded blade. *Cases/statutes cited: In re Michael R.* (2004) 120 Cal.App.4th 1203; *In re Do Kyung K.* (2001) 88 Cal.App.4th 583; P.C. §626.10. (3:09)

Case Law Today programs are released quarterly on a single DVD containing up to three months (18 total segments). Case Law Today programs are not accompanied by reference guides nor eligible for Continuing Professional Training (CPT) credit.



49 Minutes - Quarterly Edition DVD
November 2004

Marital Privilege: Spousal Testimony

with William Bedsworth, Justice of the Court of Appeal, State of California
In *United States v. Montgomery*, the IRS obtained a mail fraud conviction against Montgomery, based largely on Mrs. Montgomery's testimony. In explaining why that conviction was reversed, Justice Bedsworth provides a guide and easy summary of the rules that apply to one spouse testifying against another. *Cases/statutes cited: United States v. Montgomery* (2004 DJAR 11585)(September 16, 2004). (9:18)

Carrying Loaded Firearms in Unincorporated Area

with Jeff Rubin, Alameda County District Attorney's Office
Penal Code section 12031, which prohibits carrying a loaded firearm on a person or vehicle, is **only** violated if the suspect is in an incorporated city, or in that portion of an unincorporated territory where it has been deemed unlawful to discharge a weapon. *Cases/Statutes cited: People v. Knight* (2004) 121 Cal.App.4th 1568; P.C. §§ 12031(a)(1) &(f); 374. (5:25)

Vehicle Stops: Mistake of Law vs. Mistake of Fact

with Daniel McNeerney, Superior Court Judge, State of California
If a peace officer conducts a traffic stop due to a mistake of **law**, evidence from the stop will be suppressed. But, if the mistake is one of **fact**, then it will not necessarily lead to suppression. *Cases/statutes cited: U.S. v. King* (2001) 224 F3d 736; *U.S. v. Dorais* (2001) 241 F3d 1124; *U.S. v. Miguel* (2004) DAR 6309; *U.S. v. Garcia-Acuna* (1999) 175 F3d 1143. (9:52)

Outside Jurisdiction Arrests and Forcible Car Stops

with Jeff Rubin, Alameda County District Attorney's Office
A school police officer may make a traffic stop (off school property) for reckless speeding that presents an immediate danger to persons or property. Where an officer stops a reckless driver after a high speed chase, it is reasonable for the officer to use his car to block the suspect's car and order the suspect out at gunpoint. A DUI suspect may be forced to take a blood test if the suspect initially refuses to take a breath test and the blood is withdrawn in a reasonable manner. *Cases/Statutes cited: People v. McHugh* (2004) 119 Cal.App.4th 202; Pen. Code, §§ 836, 830.32, 847; Educ. Code, § 38000. (9:36)

Search Warrants and Child Pornography

with William Bedsworth, Justice of the Court of Appeal, State of California
In *United States v. Gourde*, the court invalidated a search warrant for child pornography and refused to apply the *Leon* good-faith rule to allow the seized materials into evidence. While the case deals with child pornography directly, it has important implications for all search warrants, which Justice Bedsworth explains. *Cases/statutes cited: United States v. Gourde* (2004 Daily Journal) DAR 10960 (September 3, 2004). (8:47)

"Luck-Out" Searches Run Out of Luck

with Jeff Rubin, Alameda County District Attorney's Office
If an officer does not know about a suspect's probation or parole search clause before conducting a search or seizure, the fact such a search clause is **later** found to exist will not stop evidence obtained pursuant to that search or seizure from being suppressed - regardless of whether the person detained, arrested, or searched is a probationer or parolee and regardless of whether the search is of the person, property, vehicle, or residence. *Cases cited: People v. Sanders* (2003) 31 Cal.4th 318. (5:20)

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43 Minutes - Quarterly Edition DVD
December 2004

Miranda: The Question-First Technique

with Daniel McNerney, Superior Court Judge, State of California

In Missouri v. Seibert, the U.S. Supreme Court disapproves of the practice of questioning a suspect without Miranda, obtaining incriminating statements, then giving the Miranda advisement and having the suspect repeat the statements. *Cases cited: Oregon v. Elstad* (1985) 470 U.S. 298; Missouri v. Seibert (2004) DAR 7795. (10:03)

Erratic Driving Stops Based on Anonymous Tips

with Jeff Rubin, Alameda County District Attorney's Office

Officers may pull over a vehicle based on an anonymous tip of erratic driving where the information provided makes it easy to determine the vehicle described and where it is clear the caller was contemporaneously observing the reported driving. *Cases cited: People v. Wells* (2004) 122 Cal.App.4th 155; *Florida v. J.L.* (2000) 529 U.S. 266. (7:05)

Last Words of the Victim

with William Bedsworth, Justice of the Court of Appeal, State of California

It comes as a surprise to everyone that the last words of a dying crime victim—about who attacked him/her or why or how—are not automatically admissible in evidence. To be admitted, those statements must fall within an exception to the hearsay rule, usually as a dying declaration or a spontaneous statement. Establishing the facts necessary to get the statement into evidence is the task of the officer who hears the statement. Justice Bedsworth explains the case of People v. Jiles to demonstrate what the police officer must note and how he or she can make these statements more likely to be admitted into evidence. *Case cited: People v. Jiles* (2004 DJDAR 11681)(9/16/04). (6:44)

Medical Marijuana Defense to Transportation Charges

with Jeff Rubin, Alameda County District Attorney's Office

The statute enacted by Proposition 215 (the medical marijuana initiative) can provide an implied defense to transportation of marijuana (H&S Code § 11360) but only if the quantity transported and the method, timing and distance of the transportation are reasonably related to the person's current medical needs. *Cases/Statutes cited: People v. Wright* (2004) 121 Cal.App.4th 1356; People v. Young (2001) 92 Cal.App.4th 229; Health & Saf. Code, " 11362.5, 11360, 11358, and 11357. (7:57)

Miranda: Discussion of Possible Punishment

with Daniel McNerney, Superior Court Judge, State of California

Discussion of possible punishment in order to coerce a confession may render the statement involuntary. But police may discuss the range of possible charges and punishments that may attach, depending on the facts and circumstances of the crime. *Cases cited: People v. Ray* (1996) 13 C4 313; People v. Jimenez (1978) 21 C3 595; People v. Holloway (2004) 33 C4 96. (6:52)

Vandalism of Community Property

with Jeff Rubin, Alameda County District Attorney's Office

A suspect may be found guilty of violating Penal Code section 594 by vandalizing community property jointly belonging to him and his spouse, even if the property is inside the marital home. *Cases/statute cited: People v. Wallace* (2004) 123 Cal.App.4th 144. (4:04)

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More Information

Distribution and Ordering

DVDs are automatically direct-mailed to all POST-Certified Telecourse Presenters and Basic Academies in the California POST Program. DVD programs cannot be duplicated. Multiple copies of CPTN materials are available via automated direct-mail to eligible agencies with multiple training sites. See POST Bulletins #03-03 and #03-13 at www.post.ca.gov/bulletin/bulletins.asp for more information about DVD distribution/eligibility.

Visit the CPTN website at www.post.ca.gov/training/cptn for complete CPTN information, video listings, and to order videos. Other questions not answered online may be directed to the POST Training Program Services Bureau at 916.227.3913, or send email to cptn@post.ca.gov.

Telecourse CPT Credit

This month's Telecourse(s) and most previous Telecourses are eligible for continuing professional training (CPT) credit if facilitated by a POST-Certified Telecourse Presenter. Certified Presenters of POST Advanced Officer Courses or Skills and Knowledge Modular training courses may also use the Telecourses as part of those courses. POST-Certified Telecourse Presenters seeking CPT credit for trainees must document Telecourse attendance on POST Course Roster (Form 2-111). Note that course control numbers are different for Telecourses on DVD. For detailed instructions on completion of the Telecourse Course Roster, visit www.post.ca.gov/training/cptn/credit.asp. Call the POST Training Delivery Bureau at 916.227.4863 for more information about Telecourse CPT credit.

Monthly DVD Mailing List

To determine if your agency is listed as a Certified Telecourse Presenter or POST Basic Academy and on the DVD distribution list— or to obtain more information about Telecourse certification— visit POST online at www.post.ca.gov/training/cptn/credit.asp. If your agency is not listed and you wish to register as a Certified Telecourse Presenter with POST, follow the website instructions or contact the Training Delivery Bureau at 916.227.4863.

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Future CPTN Programs

Illegal Street Racing & Sideshow Activity

February 2005 - Telecourse DVD (New)

Gang Members: A Hidden Threat

February 2005 - Telecourse DVD (New)

Interview Techniques

March 2005 - Telecourse DVD (New)

Interrogation Techniques

March 2005 - Telecourse DVD (New)